

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOC #:
DATE FILED: 10/3/18

UNITED STATES OF AMERICA,

-against-

16 cr 370 (CM)

MATTHEW CONNOLLY AND
GAVIN CAMPBELL BLACK,

Defendants.

ORDER CONCERNING DEFENSE REQUEST FOR "BRADY" & "GIGLIO" MATERIAL
RELATING TO OPEN INVESTIGATIONS IN WHICH
DEUTSCHE BANK IS COOPERATING

McMahon, C.J.:

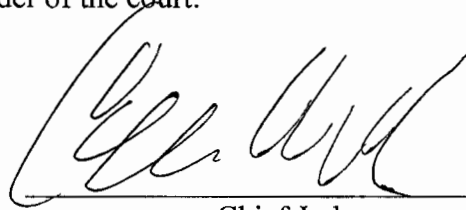
At the request of the court, the Government has provided me with two letters—one sent to defense counsel and one *ex parte*—in which it advises the court about investigations in which Deutsche Bank, the former employer of defendants, is presently cooperating.

Having reviewed both letters, and perceiving no basis on which to conclude that any of these investigations involves either of the defendants or the LIBOR-rigging investigation that resulted in their indictment, I can see no reason why it is not possible to balance legitimate law enforcement needs with the defendants' right to examine knowledgeable representatives of Deutsche Bank (either on cross or on the defense case) by asking questions about the *fact of the Bank's ongoing cooperation* in connection with multiple other investigations, none of which relates to the charges in this case. The defense has the right to elicit from an appropriate witness the fact that Deutsche Bank continues to have an interest in making the Government happy. There is no need to prolong this overly long trial with frolics and detours into the details of any—I repeat, any—of those investigations.

If the defense intends to try to elicit this information on cross it must proffer that it has a good faith basis to believe that the witness knows something about such matters. If necessary, we will take a break between direct and cross and briefly *voir dire* the witness out of the hearing of the jury. We will not interrupt the witness' direct or cross for this purpose, so the defense needs to be ready to identify its intention to examine a particular witness on this subject at the conclusion of his/her direct testimony.

This constitutes the decision and order of the court.

Dated: October 2, 2018

A handwritten signature in black ink, consisting of stylized cursive letters, positioned above a horizontal line.

Chief Judge

BY HAND AND ECF TO ALL PARTIES